



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/734,433

12/12/2003

Maurizio Della Cuna

1011-599

4601

47888 7590 08/02/2007
HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

HARDEE, JOHN R

ART UNIT

PAPER NUMBER

1751

MAIL DATE

DELIVERY MODE

08/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,433

Applicant(s)

CUNA ET AL.

Examiner

John R. Hardee

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-81 is/are pending in the application.
- 4a) Of the above claim(s) 81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 66-80 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The amendment filed June 14, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Exercise and drying are not disclosed in the original specification with sufficient specificity to support their mention in the paragraph as modified.

Applicant is required to cancel the new matter in the reply to this Office Action.

Election/Restrictions

2. Newly submitted claim 81 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The composition can be used for washing non-clothing fabrics or for cleaning material other than fabrics.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 81 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 66-74 and 77-80 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 99/59955. The reference is in French. Reference is made to English language equivalent US 6,458,987. See Examples 6, 8 and 10.

5. Claims 66-69, 71-74, 78 and 79 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Trani et al., US 5,702,636. See the example at col. 7.

Claim Rejections - 35 USC § 103

6. Claims 66-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trani et al., US 5,702,635. See the 102 rejection above. Not all of the limitations of all of the claims are disclosed with sufficient specificity to constitute anticipation. However, it would have been obvious at the time that the invention was made to incorporate esters as recited in claim 54, because the esters need not be acylated (col. 3, lines 62-67). It would have been obvious to use an ester which liberates undecanol, because the R groups of the esters may be of 1-18 carbons (col. 4, line 11). Use of EDTA is disclosed at col. 3, line 53. Regarding addition of ethoxylated alcohols, addition of surfactants is disclosed at col. 5, line 40, and ethoxylated coconut fatty alcohols are well known surfactants for use in laundry detergents.

7. Claims 66-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeer, US 5,880,076. The reference discloses detergent and personal care compositions comprising glycacarbamate and glycaurea compounds (abstract). Lactic acid esters are disclosed as useful emulsifiers at col. 30, lines 34-35. No specific amount is disclosed, but determination of the emollient-effective amount of a disclosed

Art Unit: 1751

emollient is well within the abilities of the person of ordinary skill in the surfactant art. The examiner takes the position that the disclosed R groups would make obvious the use of an 11-carbon alcohol portion of the lactate ester. A number of zinc salts are disclosed at the top of col. 38. Regarding claim 51, sequestrants are disclosed at col. 21, line 54, and aluminosilicates (zeolites) at col. 42, lines 60+. Addition of vitamin E (tocopherol) is disclosed at col. 31, line 67. Addition of 8-18 carbon alcohols is disclosed at col. 30, lines 10+. Addition of EDTA is disclosed at col. 33, line 5. Suitable surfactants are disclosed at col. 22, line 45-col. 27, line 63. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

Response to Arguments

8. Applicant's arguments filed June 14, 2007 have been fully considered but they are not persuasive. Applicant argues that the cited references do not disclose or make

Art Unit: 1751

obvious the laundering of fabric with a composition which remains on the fabric in order to prevent future perspiration odor. Whether or not this assertion is correct, it is not persuasive because applicant has claimed cleaning compositions, and the examiner has cited art which discloses or makes obvious the formulation of the claimed compositions, regardless of applicant's intended use for those compositions. .

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Douglas McGinty, may be reached at (571) 272-1029.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Art Unit: 1751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee
Primary Examiner
July 30, 2007